

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

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|------------------------------------|---|------------------------|
| In re: |) | |
| |) | |
| CIRCUIT CITY STORES, INC., et al., |) | Case No. 08-35653-KRH |
| |) | Chapter 11 |
| Debtors. |) | (Jointly Administered) |

**COTTONWOOD CORNERS – PHASE V, LLC’S RESPONSE TO DEBTORS’
TENTH OMNIBUS OBJECTION TO CERTAIN DUPLICATE CLAIMS**

Cottonwood Corners – Phase V, LLC (the “Claimant”), by counsel, hereby responds as follows to the Debtors’ Tenth Omnibus Objection to Certain Duplicate Claims (the “Objection”):

1. The Claimant, as the landlord, leased to Circuit City Stores West Coast, Inc. (the “Tenant”) certain non-residential real property under a lease dated February 1, 2004 (the “Lease”), for premises located at 10420 Coors Boulevard Bypass, Albuquerque, NM 87114 (Store No. 3378).¹

2. In connection with the Lease, Circuit City Stores, Inc. (the “Guarantor”), executed a Lease Guaranty also dated February 1, 2004 (the “Guaranty”), and for the benefit of the Tenant. Pursuant to the Guaranty’s terms, the Guarantor guaranteed the full and timely performance by the Tenant of its obligations to the Claimant under the Lease.²

3. On April 22, 2009, the Claimant timely filed a proof of claim for lease rejection damages in the amount of \$892,465.98 (Claim No. 12337) against the Tenant.

¹ A copy of the Lease is available upon request.

² A copy of the Guaranty is available upon request.

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4. On April 30, 2009, the Claimant also timely filed a proof of claim for lease rejection damages in the amount of \$892,465.98 (Claim No. 12549) against the Guarantor.

5. In the Objection, the Debtors seek the disallowance of Claim No. 12337 filed in the Tenant's bankruptcy proceeding (Case No. 08-35654) in that such claim was allegedly duplicative of Claim No. 12549 filed in the Guarantor's bankruptcy proceeding (Case No. 08-35653). The Debtors further seek the allowance of Claim No. 12549 as the sole surviving claim with respect to the Claimant's lease rejection damages.

6. However, the Objection fails to take into account that the Claimant filed Claim Nos. 12337 and 12549 (collectively, the "Claims") as a result of the Tenant's and the Guarantor's independent obligations owed to the Claimant pursuant to the Lease and the Guaranty, respectively. Accordingly, the Court should not disallow either of the Claims at this stage in the claims process.

WHEREFORE, for the reasons stated herein, the claimant, Cottonwood Corners – Phase V, LLC, respectfully requests this Court to: (a) deny the Debtors' Objection as to the disallowance of Claim No. 12337 as a duplicate claim of Claim No. 12549; and (b) grant such other and further relief to the Claimant as this Court deems just and proper.

Dated: June 29, 2009

Respectfully submitted,

/s/ Michael P. Falzone
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*Counsel for claimant, Cottonwood Corners
– Phase V, LLC*

Declaration of Sheila deLa Cruz, Esq.

Ms. Sheila deLa Cruz, Esq. states as follows:

I serve as counsel for the claimant, Cottonwood Corners – Phase V, LLC. With respect to the factual allegations contained in the foregoing Response, I have personal knowledge of such facts and represent that such allegations are true and accurate to the best of my knowledge, information and belief.

Dated: June 29, 2009

By: 
Sheila deLa Cruz, Esq.

Title: Counsel for Cottonwood Corners – Phase V, LLC

CERTIFICATE OF SERVICE

I herby certify that on this 29th day of June, 2009, a true and correct copy of the above and foregoing was served by the method or methods specified below:

 X by **electronically** filing it with the Court using the CM/ECF system, which sent notification to all parties of interest participating in the CM/ECF system.

/s/ Michael P. Falzone

Michael P. Falzone

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